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**Introduced by Senator Hancock**

February 12, 2016

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An act to amend Section 8208 of the Education Code, relating to child care.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1042, as introduced, Hancock. Child care: state preschool programs: age of eligibility.

Existing law requires the Superintendent of Public Instruction to administer all California state preschool programs, including, but not limited to, part-day age and developmentally appropriate programs for 3- and 4-year-old children. Existing law defines "3-year-old children" for these purposes as children who will have their 3rd birthday on or before September 1 of the fiscal year in which they are enrolled in a California state preschool program.

This bill would instead define "3-year-old children" as children who will have their 3rd birthday on or before December 1 of the fiscal year in which they are enrolled in a California state preschool program.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 8208 of the Education Code is amended
- 2 to read:
- 3 8208. As used in this chapter:
- 4 (a) "Alternative payments" includes payments that are made by
- 5 one child care agency to another agency or child care provider for
- 6 the provision of child care and development services, and payments

1 that are made by an agency to a parent for the parent's purchase  
2 of child care and development services.

3 (b) "Alternative payment program" means a local government  
4 agency or nonprofit organization that has contracted with the  
5 department pursuant to Section 8220.1 to provide alternative  
6 payments and to provide support services to parents and providers.

7 (c) "Applicant or contracting agency" means a school district,  
8 community college district, college or university, county  
9 superintendent of schools, county, city, public agency, private  
10 nontax-exempt agency, private tax-exempt agency, or other entity  
11 that is authorized to establish, maintain, or operate services  
12 pursuant to this chapter. Private agencies and parent cooperatives,  
13 duly licensed by law, shall receive the same consideration as any  
14 other authorized entity with no loss of parental decisionmaking  
15 prerogatives as consistent with the provisions of this chapter.

16 (d) "Assigned reimbursement rate" is that rate established by  
17 the contract with the agency and is derived by dividing the total  
18 dollar amount of the contract by the minimum child day of average  
19 daily enrollment level of service required.

20 (e) "Attendance" means the number of children present at a  
21 child care and development facility. "Attendance," for purposes  
22 of reimbursement, includes excused absences by children because  
23 of illness, quarantine, illness or quarantine of their parent, family  
24 emergency, or to spend time with a parent or other relative as  
25 required by a court of law or that is clearly in the best interest of  
26 the child.

27 (f) "Capital outlay" means the amount paid for the renovation  
28 and repair of child care and development facilities to comply with  
29 state and local health and safety standards, and the amount paid  
30 for the state purchase of relocatable child care and development  
31 facilities for lease to qualifying contracting agencies.

32 (g) "Caregiver" means a person who provides direct care,  
33 supervision, and guidance to children in a child care and  
34 development facility.

35 (h) "Child care and development facility" means a residence or  
36 building or part thereof in which child care and development  
37 services are provided.

38 (i) "Child care and development programs" means those  
39 programs that offer a full range of services for children from  
40 infancy to 13 years of age, for any part of a day, by a public or

1 private agency, in centers and family child care homes. These  
2 programs include, but are not limited to, all of the following:

- 3 (1) General child care and development.
- 4 (2) Migrant child care and development.
- 5 (3) Child care provided by the California School Age Families  
6 Education Program (Article 7.1 (commencing with Section 54740)  
7 of Chapter 9 of Part 29 of Division 4 of Title 2).
- 8 (4) California state preschool program.
- 9 (5) Resource and referral.
- 10 (6) Child care and development services for children with  
11 exceptional needs.
- 12 (7) Family child care home education network.
- 13 (8) Alternative payment.
- 14 (9) Schoolage community child care.

15 (j) “Child care and development services” means those services  
16 designed to meet a wide variety of needs of children and their  
17 families, while their parents or guardians are working, in training,  
18 seeking employment, incapacitated, or in need of respite. These  
19 services may include direct care and supervision, instructional  
20 activities, resource and referral programs, and alternative payment  
21 arrangements.

22 (k) “Children at risk of abuse, neglect, or exploitation” means  
23 children who are so identified in a written referral from a legal,  
24 medical, or social service agency, or emergency shelter.

25 (l) “Children with exceptional needs” means either of the  
26 following:

27 (1) Infants and toddlers under three years of age who have been  
28 determined to be eligible for early intervention services pursuant  
29 to the California Early Intervention Services Act (Title 14  
30 (commencing with Section 95000) of the Government Code) and  
31 its implementing regulations. These children include an infant or  
32 toddler with a developmental delay or established risk condition,  
33 or who is at high risk of having a substantial developmental  
34 disability, as defined in subdivision (a) of Section 95014 of the  
35 Government Code. These children shall have active individualized  
36 family service plans, shall be receiving early intervention services,  
37 and shall be children who require the special attention of adults in  
38 a child care setting.

39 (2) Children 3 to 21 years of age, inclusive, who have been  
40 determined to be eligible for special education and related services

1 by an individualized education program team according to the  
2 special education requirements contained in Part 30 (commencing  
3 with Section 56000) of Division 4 of Title 2, and who meet  
4 eligibility criteria described in Section 56026 and, Article 2.5  
5 (commencing with Section 56333) of Chapter 4 of Part 30 of  
6 Division 4 of Title 2, and Sections 3030 and 3031 of Title 5 of the  
7 California Code of Regulations. These children shall have an active  
8 individualized education program, shall be receiving early  
9 intervention services or appropriate special education and related  
10 services, and shall be children who require the special attention of  
11 adults in a child care setting. These children include children with  
12 intellectual disabilities, hearing impairments (including deafness),  
13 speech or language impairments, visual impairments (including  
14 blindness), serious emotional disturbance (also referred to as  
15 emotional disturbance), orthopedic impairments, autism, traumatic  
16 brain injury, other health impairments, or specific learning  
17 disabilities, who need special education and related services  
18 consistent with Section 1401(3)(A) of Title 20 of the United States  
19 Code.

20 (m) “Closedown costs” means reimbursements for all approved  
21 activities associated with the closing of operations at the end of  
22 each growing season for migrant child development programs  
23 only.

24 (n) “Cost” includes, but is not limited to, expenditures that are  
25 related to the operation of child care and development programs.  
26 “Cost” may include a reasonable amount for state and local  
27 contributions to employee benefits, including approved retirement  
28 programs, agency administration, and any other reasonable program  
29 operational costs. “Cost” may also include amounts for licensable  
30 facilities in the community served by the program, including lease  
31 payments or depreciation, downpayments, and payments of  
32 principal and interest on loans incurred to acquire, rehabilitate, or  
33 construct licensable facilities, but these costs shall not exceed fair  
34 market rents existing in the community in which the facility is  
35 located. “Reasonable and necessary costs” are costs that, in nature  
36 and amount, do not exceed what an ordinary prudent person would  
37 incur in the conduct of a competitive business.

38 (o) “Elementary school,” as contained in former Section 425 of  
39 Title 20 of the United States Code (the National Defense Education  
40 Act of 1958, Public Law 85-864, as amended), includes early

1 childhood education programs and all child development programs,  
2 for the purpose of the cancellation provisions of loans to students  
3 in institutions of higher learning.

4 (p) “Family child care home education network” means an entity  
5 organized under law that contracts with the department pursuant  
6 to Section 8245 to make payments to licensed family child care  
7 home providers and to provide educational and support services  
8 to those providers and to children and families eligible for  
9 state-subsidized child care and development services. A family  
10 child care home education network may also be referred to as a  
11 family child care home system.

12 (q) “Health services” include, but are not limited to, all of the  
13 following:

14 (1) Referral, whenever possible, to appropriate health care  
15 providers able to provide continuity of medical care.

16 (2) Health screening and health treatment, including a full range  
17 of immunization recorded on the appropriate state immunization  
18 form to the extent provided by the Medi-Cal Act (Chapter 7  
19 (commencing with Section 14000) of Part 3 of Division 9 of the  
20 Welfare and Institutions Code) and the Child Health and Disability  
21 Prevention Program (Article 6 (commencing with Section 124025)  
22 of Chapter 3 of Part 2 of Division 106 of the Health and Safety  
23 Code), but only to the extent that ongoing care cannot be obtained  
24 utilizing community resources.

25 (3) Health education and training for children, parents, staff,  
26 and providers.

27 (4) Followup treatment through referral to appropriate health  
28 care agencies or individual health care professionals.

29 (r) “Higher educational institutions” means the Regents of the  
30 University of California, the Trustees of the California State  
31 University, the Board of Governors of the California Community  
32 Colleges, and the governing bodies of any accredited private  
33 nonprofit institution of postsecondary education.

34 (s) “Intergenerational staff” means persons of various  
35 generations.

36 (t) “Limited-English-speaking-proficient and  
37 non-English-speaking-proficient children” means children who  
38 are unable to benefit fully from an English-only child care and  
39 development program as a result of either of the following:

1 (1) Having used a language other than English when they first  
2 began to speak.

3 (2) Having a language other than English predominantly or  
4 exclusively spoken at home.

5 (u) “Parent” means a biological parent, stepparent, adoptive  
6 parent, foster parent, caretaker relative, or any other adult living  
7 with a child who has responsibility for the care and welfare of the  
8 child.

9 (v) “Program director” means a person who, pursuant to Sections  
10 8244 and 8360.1, is qualified to serve as a program director.

11 (w) “Proprietary child care agency” means an organization or  
12 facility providing child care, which is operated for profit.

13 (x) “Resource and referral programs” means programs that  
14 provide information to parents, including referrals and coordination  
15 of community resources for parents and public or private providers  
16 of care. Services frequently include, but are not limited to: technical  
17 assistance for providers, toy-lending libraries, equipment-lending  
18 libraries, toy- and equipment-lending libraries, staff development  
19 programs, health and nutrition education, and referrals to social  
20 services.

21 (y) “Severely disabled children” are children with exceptional  
22 needs from birth to 21 years of age, inclusive, who require intensive  
23 instruction and training in programs serving pupils with the  
24 following profound disabilities: autism, blindness, deafness, severe  
25 orthopedic impairments, serious emotional disturbances, or severe  
26 intellectual disabilities. “Severely disabled children” also include  
27 those individuals who would have been eligible for enrollment in  
28 a developmental center for handicapped pupils under Chapter 6  
29 (commencing with Section 56800) of Part 30 of Division 4 of Title  
30 2 as it read on January 1, 1980.

31 (z) “Short-term respite child care” means child care service to  
32 assist families whose children have been identified through written  
33 referral from a legal, medical, or social service agency, or  
34 emergency shelter as being neglected, abused, exploited, or  
35 homeless, or at risk of being neglected, abused, exploited, or  
36 homeless. Child care is provided for less than 24 hours per day in  
37 child care centers, treatment centers for abusive parents, family  
38 child care homes, or in the child’s own home.

39 (aa) (1) “Site supervisor” means a person who, regardless of  
40 his or her title, has operational program responsibility for a child

1 care and development program at a single site. A site supervisor  
2 shall hold a permit issued by the Commission on Teacher  
3 Credentialing that authorizes supervision of a child care and  
4 development program operating in a single site. The Superintendent  
5 may waive the requirements of this subdivision if the  
6 Superintendent determines that the existence of compelling need  
7 is appropriately documented.

8 (2) For California state preschool programs, a site supervisor  
9 may qualify under any of the provisions in this subdivision, or  
10 may qualify by holding an administrative credential or an  
11 administrative services credential. A person who meets the  
12 qualifications of a program director under both Sections 8244 and  
13 8360.1 is also qualified under this subdivision.

14 (ab) “Standard reimbursement rate” means that rate established  
15 by the Superintendent pursuant to Section 8265.

16 (ac) “Startup costs” means those expenses an agency incurs in  
17 the process of opening a new or additional facility before the full  
18 enrollment of children.

19 (ad) “California state preschool program” means part-day and  
20 full-day educational programs for low-income or otherwise  
21 disadvantaged three- and four-year-old children.

22 (ae) “Support services” means those services that, when  
23 combined with child care and development services, help promote  
24 the healthy physical, mental, social, and emotional growth of  
25 children. Support services include, but are not limited to: protective  
26 services, parent training, provider and staff training, transportation,  
27 parent and child counseling, child development resource and  
28 referral services, and child placement counseling.

29 (af) “Teacher” means a person with the appropriate permit issued  
30 by the Commission on Teacher Credentialing who provides  
31 program supervision and instruction that includes supervision of  
32 a number of aides, volunteers, and groups of children.

33 (ag) “Underserved area” means a county or subcounty area,  
34 including, but not limited to, school districts, census tracts, or ZIP  
35 Code areas, where the ratio of publicly subsidized child care and  
36 development program services to the need for these services is  
37 low, as determined by the Superintendent.

38 (ah) “Workday” means the time that the parent requires  
39 temporary care for a child for any of the following reasons:

40 (1) To undertake training in preparation for a job.

1 (2) To undertake or retain a job.

2 (3) To undertake other activities that are essential to maintaining  
3 or improving the social and economic function of the family, are  
4 beneficial to the community, or are required because of health  
5 problems in the family.

6 (ai) “Three-year-old children” means children who will have  
7 their third birthday on or before ~~the date specified~~ *December 1* of  
8 the fiscal year in which they are enrolled in a California state  
9 preschool ~~program, as follows:~~ *program*.

10 ~~(1) November 1 of the 2012–13 fiscal year.~~

11 ~~(2) October 1 of the 2013–14 fiscal year.~~

12 ~~(3) September 1 of the 2014–15 fiscal year and each fiscal year~~  
13 ~~thereafter.~~

14 (aj) “Four-year-old children” means children who will have  
15 their fourth birthday on or before ~~the date specified~~ *September 1*  
16 of the fiscal year in which they are enrolled in a California state  
17 preschool ~~program, as follows:~~ *program*.

18 ~~(1) November 1 of the 2012–13 fiscal year.~~

19 ~~(2) October 1 of the 2013–14 fiscal year.~~

20 ~~(3) September 1 of the 2014–15 fiscal year and each fiscal year~~  
21 ~~thereafter.~~

22 (ak) “Local educational agency” means a school district, a  
23 county office of education, a community college district, or a  
24 school district on behalf of one or more schools within the school  
25 district.